

AMENDED IN ASSEMBLY MARCH 20, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 434**

**Introduced by Assembly Member Hancock**

February 14, 2003

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An act to amend Section ~~24214~~ 24216.5 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 434, as amended, Hancock. State teachers' retirement: postretirement earnings.

Under existing law, the service retirement allowance of a retired member of the Defined Benefit Program of the State Teachers' Retirement Plan is generally reduced if the member's postretirement compensation from specified activities exceeds a certain dollar amount. ~~Existing law specifies certain exceptions to this postretirement compensation limitation.~~

~~This bill would additionally except from the postretirement compensation limitation any compensation earned by a member who returns to work at 60 years of age or older. However, existing law exempts, until July 1, 2005, a retired member from that postretirement compensation limitation if the member retired on or before January 1, 2000, and is employed to provide direct classroom instruction to pupils in kindergarten or any of grades 1 to 12, inclusive, to provide support and assessment for new teachers or to provide support to individuals completing student teaching assignments or participating in the Preinternship Teaching Program, an alternative certification program, or the School Paraprofessional Teacher Training Program.~~

*Under this bill, that exemption would be applicable to members who retired on or before January 1, 2003, and who are employed to provide that same instruction or support and would continue in effect until January 1, 2010.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 24214 of the Education Code, as~~  
2     ~~SECTION 1. Section 24216.5 of the Education Code is~~  
3     ~~amended to read:~~  
4     24216.5. (a) The compensation earned by a member who  
5     retired for service under this part shall be exempt from  
6     subdivisions (d), (f), and (g) of Section 24214, if all of the  
7     following conditions are met:  
8     (1) The member retired for service with an effective date on or  
9     before January 1, ~~2000~~ 2003.  
10    (2) The member retired for service is employed by a school  
11    district to provide any of the following:  
12    (A) Direct classroom instruction to pupils enrolled in  
13    kindergarten or any grades 1 to 12, inclusive.  
14    (B) Support and assessment for new teachers through the  
15    Beginning Teacher Support and Assessment program authorized  
16    by Section 44279.1.  
17    (C) Support to individuals completing student teaching  
18    assignments.  
19    (D) Support to individuals participating in the following  
20    programs:  
21    (i) Pre-Internship Teaching Program authorized pursuant to  
22    Article 5.6 (commencing with Section 44305) of Chapter 2 of Part  
23    25.  
24    (ii) Alternative certification programs authorized pursuant to  
25    Article 11 (commencing with Section 44380) of Chapter 2 of Part  
26    25.  
27    (iii) School Paraprofessional Teacher Training Program  
28    established pursuant to Article 12 (commencing with Section  
29    44390) of Chapter 2 of Part 25.  
30    (3) All members retired for service whose employment with a  
31    school district meets the conditions specified in this section shall

be treated as a distinct class of temporary employees within the existing bargaining unit whose service ~~shall~~ *may* not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of a school district. The compensation for service performed by this class of employees shall be established in accordance with subdivision (b) of Section 24214 and agreed to in the collective bargaining agreement between the employing school district and the exclusive representative for the existing bargaining unit within which these temporary employees of the school district are treated as a distinct class.

(4) The employing school district submits documentation required by the system to substantiate the eligibility of the temporary employment of a member retired for service for the exemption under this subdivision.

(b) A school district that employs a member retired for service pursuant to this section shall maintain accurate records of the retired member's compensation earned and shall report that compensation monthly to the system regardless of the method of payment or the source of funds from which the compensation is paid.

(c) This section ~~shall~~ *does* not apply to the compensation earned for creditable service performed by a member retired for service for a community college district.

(d) The amendments made to this section by an act enacted in the second year of the 1999–2000 Regular Session shall apply to the 2000–01 school year and all subsequent school years.

(e) This section shall remain in effect only until ~~July 1, 2005~~ *January 1, 2010*, and as of that date is repealed unless a later enacted statute which is enacted before ~~July 1, 2005~~ *January 1, 2010*, deletes or extends that date.

~~amended by Section 2 of Chapter 903 of the Statutes of 2002, is amended to read:~~

~~24214. (a) A member retired for service under this part may perform the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member may not make contributions to the~~

~~1 retirement fund or accrue service credit based on compensation  
2 earned from that service.~~

~~3 (b) The rate of pay for service performed by a member retired  
4 for service under this part as an employee of the employer may not  
5 be less than the minimum, nor exceed that paid by the employer  
6 to other employees performing comparable duties.~~

~~7 (c) A member retired for service under this part may not be  
8 required to reinstate for performing the activities identified in  
9 paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision  
10 (b), of Section 22119.5, as an employee of an employer, as an  
11 employee of a third party, or as an independent contractor within  
12 the California public school system.~~

~~13 (d) A member retired for service under this part may earn  
14 compensation for performing activities identified in paragraphs  
15 (1) to (9), inclusive, of subdivision (a), or subdivision (b), of  
16 Section 22119.5 in any one school year up to the limitation  
17 specified in subdivision (f) as an employee of an employer, as an  
18 employee of a third party, or an independent contractor, within the  
19 California public school system, without a reduction in his or her  
20 retirement allowance.~~

~~21 (e) (1) The postretirement compensation limitation provisions  
22 set forth in this section are not applicable to compensation earned  
23 by a member retired for service under this part who has returned  
24 to work after the date of retirement and, for a period of at least 12  
25 consecutive months, has not performed the activities identified in  
26 paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision  
27 (b), of Section 22119.5 as an employee of an employer, as an  
28 employee of a third party, or as an independent contractor within  
29 the California public school system.~~

~~30 (2) The postretirement compensation limitation provisions set  
31 forth in this section are not applicable to compensation earned for  
32 the performance of the activities described in subdivision (a) for  
33 which the employer is not eligible to receive state apportionment  
34 or to compensation that is not creditable pursuant to Section  
35 22119.2.~~

~~36 (3) The postretirement compensation limitations provisions set  
37 forth in this section are not applicable to compensation earned by  
38 a member retired for service under this part who has returned to  
39 work at 60 years of age or older.~~

1 ~~(f) The limitation that shall apply to the compensation for~~  
2 ~~performance of the activities identified in paragraphs (1) to (9),~~  
3 ~~inclusive, of subdivision (a), or subdivision (b), of Section~~  
4 ~~22119.5 by a member retired for service under this part either as~~  
5 ~~an employee of an employer, an employee of a third party, or as an~~  
6 ~~independent contractor, shall, in any one school year, be an amount~~  
7 ~~calculated by the board each July 1 equal to twenty-two thousand~~  
8 ~~dollars (\$22,000) multiplied by the percentage increase in the~~  
9 ~~average earnable salary of active members of the Defined Benefit~~  
10 ~~Program, as determined by the system, from the 1998-99 fiscal~~  
11 ~~year to the fiscal year ending in the previous calendar year.~~

12 ~~(g) If a member retired for service under this part earns~~  
13 ~~compensation for performing activities identified in paragraphs~~  
14 ~~(1) to (9), inclusive, of subdivision (a), or subdivision (b), of~~  
15 ~~Section 22119.5 in excess of the limitation specified in subdivision~~  
16 ~~(f), as an employee of an employer, as an employee of a third party,~~  
17 ~~or as an independent contractor, within the California public~~  
18 ~~school system, and if that compensation is not exempt from that~~  
19 ~~limitation under subdivision (e) or any other provisions of law, the~~  
20 ~~member's retirement allowance shall be reduced by the amount of~~  
21 ~~the excess compensation. The amount of the reduction may be~~  
22 ~~equal to the monthly allowance payable but shall not exceed the~~  
23 ~~amount of the annual allowance payable under this part for the~~  
24 ~~fiscal year in which the excess compensation was earned.~~

25 ~~(h) The amendments to this section enacted during the 1995-96~~  
26 ~~Regular Session shall be deemed to have become operative on July~~  
27 ~~1, 1996.~~

28 ~~(i) This section shall be repealed on January 1, 2008, unless~~  
29 ~~later enacted legislation extends or deletes that date.~~

30 ~~SEC. 2. Section 24214 of the Education Code, as amended by~~  
31 ~~Section 3 of Chapter 903 of the Statutes of 2002, is amended to~~  
32 ~~read:~~

33 ~~24214. (a) A member retired for service under this part may~~  
34 ~~perform the activities identified in paragraphs (1) to (9), inclusive,~~  
35 ~~of subdivision (a), or subdivision (b), of Section 22119.5 as an~~  
36 ~~employee of an employer, as an employee of a third party, or as an~~  
37 ~~independent contractor within the California public school~~  
38 ~~system, but the member may not make contributions to the~~  
39 ~~retirement fund or accrue service credit based on compensation~~  
40 ~~earned from that service.~~

~~(b) The rate of pay for service performed by a member retired for service under this part as an employee of the employer may not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.~~

~~(c) A member retired for service under this part may not be required to reinstate for performing the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5, as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.~~

~~(d) A member retired for service under this part may earn compensation for performing activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 in any one school year up to the limitation specified in subdivision (f) as an employee of an employer, as an employee of a third party, or an independent contractor, within the California public school system, without a reduction in his or her retirement allowance.~~

~~(e) (1) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of the activities described in subdivision (a) for which the employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2.~~

~~(2) The postretirement compensation limitations provisions set forth in this section are not applicable to compensation earned by a member retired for service under this part who has returned to work at 60 years of age or older.~~

~~(f) The limitation that shall apply to the compensation for performance of the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor, shall, in any one school year, be an amount calculated by the board each July 1 equal to twenty-two thousand dollars (\$22,000) multiplied by the average earnable salary of active members of the Defined Benefit Program, as determined by the system, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year.~~

1     ~~(g) If a member retired for service under this part earns~~  
2     ~~compensation for performing activities identified in paragraphs~~  
3     ~~(1) to (9), inclusive, of subdivision (a), or subdivision (b), of~~  
4     ~~Section 22119.5 in excess of the limitation specified in subdivision~~  
5     ~~(f), as an employee of an employer, as an employee of a third party,~~  
6     ~~or as an independent contractor, within the California public~~  
7     ~~school system, the member's retirement allowance shall be~~  
8     ~~reduced by the amount of the excess compensation. The amount~~  
9     ~~of the reduction may be equal to the monthly allowance payable~~  
10    ~~but may not exceed the amount of the annual allowance payable~~  
11    ~~under this part for the fiscal year in which the excess compensation~~  
12    ~~was earned.~~

13    ~~(h) The language of this section derived from the amendments~~  
14    ~~to the section of this number added by Chapter 394 of the Statutes~~  
15    ~~of 1995, enacted during the 1995-96 Regular Session, shall be~~  
16    ~~deemed to have become operative on July 1, 1996.~~

17    ~~(i) This section shall become operative on January 1, 2008.~~

